

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SALUSTINO SANTIAGO

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER
BARNETT SHIELD NO: 938026 and POLICE OFFICER
LAM, SHIELD NO. UNKNOWN,

Defendants.
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FILED
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CIVIL CASE No:

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

COMPLAINT IN CIVIL CASE

JURY TRIAL DEMANDED

CV 15 2980
AMON, CH.J.

SCANLON, M.J.

Plaintiff, SALUSTINO SANTIAGO, by his attorney, ADRIAN A. ELLIS, LLC, alleges as follows:

I. **INTRODUCTION**

1. This is an action pursuant to U.S.C. Section 1983 to vindicate the civil rights of SALUSTINO SANTIAGO. The plaintiff contends that the defendants have subjected the Plaintiff to false arrest, false imprisonment and malicious abuse of process whereas he has been seized, falsely imprisoned and defamed by the defendant's. Defendants were acting under the color of state law and pursuant to municipal customs, practices and policies when they undertook the aforementioned acts against plaintiff.

II. **JURISDICTION**

2. This court has jurisdiction over this action under 42 U.S.C. Section 1983 and the 6th, 4th, 5th and 14th Amendments of the Constitution of the United States. Venue is proper, as the operative events occurred within this judicial district.

III. **PARTIES**

3. Plaintiff, SALUSTINO SANTIAGO is a resident of Kings County and sues on his own behalf.
4. Defendant, The City of New York is a municipality that is incorporated under the laws of the

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III. PARTIES

3. Plaintiff, SALUSTINO SANTIAGO is a resident of Kings County and sues on his own behalf.
4. Defendant, The City of New York is a municipality that is incorporated under the laws of the

State of New York. Its actions and those of its agents must conform to the dictates of the Constitution of the United States. It may sue and be sued and at all relevant times herein acted under the color of the state law and pursuant to its own policies, practices and customs.

5. Defendant Officer, Barnett, at all times was employed by the City of New York upon information and belief as a police officer. Her actions must conform to the dictates of the Constitution of the United States. She is sued in her individual capacity for violating the plaintiff's civil rights while acting under the color of state law and/or acting pursuant to policies, practices and customs of the City of New York.

6. Defendant Officer Lam, at all times was employed by the City of New York upon information and belief as a police officer. His actions must conform to the dictates of the Constitution of the United States. He is sued in his individual capacity for violating the plaintiff's civil rights while acting under the color of state law and/or acting pursuant to policies, practices and customs of the City of New York.

IV. FACTUAL AVERMENTS

7. Defendants, all of whom were acting under the color of the state law and/or pursuant to policies, practices and customs of the City of New York violated plaintiff's civil rights in the following ways:

a. On June 10, 2012 at approximately 2:30 p.m. the plaintiff was travelling on Fifth Street, between Fifth Avenue and Fourth Avenue in Brooklyn, New York when he approached what was a parking spot on the left hand side of Fifth Street. The spot that plaintiff was seeking to park was partially obscured by a SUV which was double parked on the same side of the street. A truck which was travelling and trying to pass the double parked SUV ended up striking the side mirror of a parked car. The truck and defendants then drove past the plaintiff's vehicle as the defendants were pulling over the truck driver. The defendants alighted from their vehicle and instructed the plaintiff "not to move" shouting at the plaintiff to "stay there."

b. The plaintiff remarked that he is trying to park his vehicle. However the defendants told him to stay there because he caused the accident. The plaintiff told the defendants that they had the wrong person. The defendants told the plaintiff he needs to produce his driver's license. The plaintiff then asked if he was being arrested. Defendant Barnett started to scream at the plaintiff and said "your not giving me your license" then she followed up by saying "okay" and she radioed for backup. Backup comprised of approximately fifteen officers. Plaintiff's car was surrounded by approximately five squad cars. Plaintiff was grabbed and pulled from his car and handcuffed. The plaintiff's vehicle was then subject to a search by defendants and their colleagues.

c. The plaintiff was taken to the 78th precinct where after three hours of custody he was issued a Desk Appearance Ticket for disorderly conduct as well as traffic tickets for violating Traffic Rules. The disorderly conduct charge was dismissed at the first court appearance.

d. The plaintiff was also given two traffic tickets by the defendants. The first which charged the plaintiff with violating Traffic Rule 4-08(f)(1) was dismissed after a hearing was conducted. The second charge, which charged the plaintiff with failure to comply with a lawful order was dismissed May 18, 2015. The plaintiff spent cumulatively twenty hours in traffic court defending himself from the false charges vindictively levied at him by defendants.

FIRST CLAIM FOR RELIEF

8. Defendants actions against plaintiff were undertaken pursuant to municipal policies, practices and customs of using the arrest power against the citizenry when deemed necessary, despite the lack of probable cause, as a law enforcement tool.

9. As a result of the defendants actions the plaintiff has developed a phobia towards all police officers and to date carries a deep-seated fear of all police officers.

10. The conduct of defendants in falsely arresting, unlawfully imprisoning and maliciously abusing the process against the plaintiff was outrageous and was done with a total and utter

reckless indifference to plaintiff's protected civil rights, entitling plaintiffs to an award of punitive damages as against the individual defendants.

11. Solely as a result of these actions, plaintiff was:

- a. Suffered severe emotional trauma and was subjected to great fear and terror and personal humiliation and degradation.
- b. Has suffered a loss of his liberty, and
- c. Has been caused to fear repetition of the unlawful conduct by the defendants or by other police officers.

12. Each of the defendants, jointly and severally, acted maliciously, willfully and wantonly, and outside the scope of their jurisdiction, although under the color of law, and violated the rights of the plaintiffs:

- a. To be free from false arrest;
- b. To be free from unlawful imprisonment;
- c. To be free from intentional infliction of great emotional distress;
- d. To be free from summary punishment without trial; and
- e. To due process of law.

13. All of these rights are secured to the plaintiff by the provisions of the Fourth and Fourteenth Amendments to the Constitution of the United States of America and by 42 U.S.C. §§ 1983, 1988.

14. As a result of the defendants conduct, plaintiff has suffered damage and injury.

SECOND CLAIM FOR RELIEF

15. Plaintiff repeats and reiterates each and every allegation contained in the paragraphs of this complaint designated "I" through "14" inclusive with the same force and effect as though each were fully set forth at length here.

16. The defendants intentionally and for the purpose of causing severe physical and mental distress conducted themselves towards the plaintiff in a manner so outrageous and shocking that it exceeded all reasonable bounds of decency.
17. The defendant recklessly conducted themselves towards the plaintiffs in a manner so outrageous and shocking that it exceeded all reasonable bounds of decency.

PRAYER

Plaintiff demands judgment against the defendants for:

1. Compensatory damages in an amount that the trier of facts considers just and fair.
2. Punitive and exemplary damages in an amount that the trier of the fact considers sufficient to punish and deter each defendant against whom, theses damages are awarded;
3. Costs of suit;
4. Reasonable attorney fees; and
5. All other relief that is just and proper.

Dated: Brooklyn, New York
May 18, 2015

Respectfully Submitted

Adrian A. Ellis, LLC

By: 

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